

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVE DAVIS,

Plaintiff(s),

v.

THE LIVING TRUST OF MICHAEL J.
FITZGERALD, HENRY W.
RANSPOT,

Defendant(s).

2:12-CV-1939 JCM (NJK)

ORDER

Presently before the court is the report and recommendation of Magistrate Judge Koppe. (Doc. # 69). No objections have been filed and the deadline date for filing objections has expired. Also before the court is defendant's motion for attorneys fees and costs. (Doc. # 63).

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate

1 judge's report and recommendation where no objections have been filed. *See United States v.*
2 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the
3 district court when reviewing a report and recommendation to which no objections were made); *see*
4 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's
5 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any
6 issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's
7 recommendation, then this court may accept the recommendation without review. *See, e.g.,*
8 *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation
9 to which no objection was filed).

10 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
11 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation
12 and underlying briefs, this court finds good cause appears to ADOPT the magistrate's findings in
13 full.

14 Similarly, because plaintiff failed to file a response to defendant's motion for attorneys fees
15 and costs, and because it is apparent from the record that this action was brought in bad faith, the
16 court will grant defendant's motion for attorneys fees and costs.¹ *See Optyl Eyewear Fashion Int'l*
17 *Corp. v. Style Cos., Ltd.*, 760 F.2d 1045, 1048 (9th Cir. 1985); 28 U.S.C. § 1927.

18 Accordingly,

19 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
20 recommendation of Magistrate Judge Koppe (doc. #69) be, and the same hereby is, ADOPTED in
21 its entirety.

22 IT IS FURTHER ORDERED that default judgment be entered on the remaining
23 counterclaims pending against plaintiff.

24 ...

25 ...

26

27 ¹ At the time this case was filed, two separate courts of competent jurisdiction had already issued final
28 judgments stating that plaintiff's claims were barred as a matter of law.

1 IT IS FURTHER ORDERED that defendant's motion for attorneys fees and costs (doc. # 63)
2 is GRANTED.

3 DATED February 4, 2014.

4
5 
6 UNITED STATES DISTRICT JUDGE
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28